



2008

FAIR LABOR ASSOCIATION INDEPENDENT EXTERNAL MONITORING REPORT

COMPANY: Puma
COUNTRY: China
FACTORY CODE: 360015914G
MONITOR: ALGI
AUDIT DATE: December 8 – 9, 2008
PRODUCTS: Balls
PROCESSES: Cutting, Sewing, Printing,
Packing
NUMBER OF WORKERS: 1045



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Wages, Benefits and Overtime Compensation: Holidays, Leave, Legal Benefits and Bonuses

WBOT.5 Employers shall provide all legally mandated holidays, leave, benefits and bonuses, such as official holidays, annual leave, sick leave, severance payments and 13th month payments, to all eligible workers within legally defined time periods. In addition, all leave and bonuses shall be calculated correctly. (S)

Noncompliance

Explanation: Among a total of 1045 employees, 50 employees are enrolled in all 5 kinds of social insurance; 44 employees are enrolled in unemployment insurance. The other 4 insurances are paid by the government; 18 rural residents enrolled in social insurance for rural residents, covering only pension insurance; 958 migrant employees enrolled in comprehensive social insurance for migrant employees, covering only work injury, medical and pension insurances. In the municipality, migrant workers can only be enrolled in comprehensive social insurance.

Sources: documentation review, management interview

Legal References: Article 72 of PRC Labor Law (Chapter 9, Social Security and Benefit): Management and employees must participate in social insurance programs. Article 73, PRC Labor Legal Reference: Workers shall be provided with social insurance benefits under the following circumstances: a) retirement, b) illness, c) disability caused by work-related injury or occupational disease, d) unemployment and e) child bearing. Article 73 of PRC Labor Law (Chapter 9, Social Insurance and Welfare): Social insurance contributions shall be fulfilled in full and on time.

Plan Of Action:

1. In the municipality, migrant workers can only be enrolled in comprehensive social insurance.
2. According to Puma's Code of Conduct, workers shall be entitled to all legally mandated benefits, such as the social insurance program which covers pension, medical care, unemployment, work place injury, and maternity insurances. Where the local law does not require full coverage of workers in these programs, factory should ensure legal compliance as a bottom line. On top of this, factory needs to have a plan to collect legal guidelines with regard to social insurance and ensure all workers are covered in social insurance program step by step.

Deadline Date: 12/31/2009

Supplier CAP: Factory will follow on any new rules issued by local government.

Supplier CAP 01/01/2009

Date:

Action Taken: December 10, 2008 audit, document review: All migrant employees are enrolled in comprehensive social insurance program (work place injury, medical and pension insurances), this strictly follows municipality regulations.

Plan

Complete:

Plan

Complete

Date:

Wages, Benefits and Overtime Compensation: Payment for All Hours Worked

WBOT.7 Workers shall be paid for all hours worked in a workweek. Calculation of hours worked must include all time that the employer allows or requires the worker to work. (S)

Noncompliance

Explanation: There was a picking record on October 26, 2008 (Sunday). However, no corresponding record could be found during record review. The raw material warehouse worker said that she recorded the wrong date on the picking list. Auditor further interviewed 8 more workers from different departments, all interviewees said that they did not work on October 26, 2008. Since inconsistencies were found between time records, worker interviews and production records, it cannot be verified whether workers are paid all hours worked.

Sources: documentation review, raw material picking list, factory tour, worker interviews

Plan Of Action:

1. Factory is required to set up an automatic electrical time card system to record all work.
2. All working hours should be recorded properly, with workers paid accordingly.
3. To ensure transparency in all time records, cross checking between production records, worker interviews and electronic time record system will be conducted during our audit or visit.



Deadline 01/01/2009
Date:

Supplier Factory has committed to recording all work hours and paying for them legally.
CAP:

Supplier CAP 01/01/2009
Date:

Action As per our audit on December 10, 2008, factory has an automatic electrical time card
Taken: system to record all work hours.

Plan
Complete:

Plan
Complete
Date:

Wages, Benefits and Overtime Compensation: Premium/Overtime Compensation

WBOT.10 The factory shall comply with all applicable laws, regulations and procedures governing the payment of premium rates for work on holidays, rest days, and overtime. (S)

Noncompliance

Explanation: There was a picking record October 26, 2008 (Sunday). However, no corresponding record could be found during time record review. The raw material warehouse worker said that she recorded the wrong date on the picking list. Auditor further interviewed 8 more workers from different departments, all interviewees said that they did not work on October 26, 2008. Since inconsistencies were found between time records and worker interviews, it cannot be verified whether overtime compensation is accurately paid or not.

Sources: documentation review, factory tour, worker interviews, raw material warehouse picking list

Legal References: Article 44.1 of PRC Labor Law: The employer shall pay workers no less than 150% of their regular wages if they are required to work overtime. Article 44. 2 of PRC Labor Law: Payment of wages to laborers should be no less than 200% of the normal wages if employees are required to work on a rest day and no deferred rest can be taken. Article 44.3 of PRC Labor Legal Law: Payment to workers should be no less than 300% of the normal wage if they are required to work during a legal holiday.

Plan Of Action:

1. Factory is required to set up an automatic electrical time card system to record all work.
2. All working hours should be recorded properly with workers being paid accordingly.
3. To ensure transparency of all time records, cross checking between production records, worker interviews and electronic time record system will be conducted during our audit or visit.

Deadline Date: 01/01/2009

Supplier CAP: Factory has committed to recording all work hours and paying for them legally.

Supplier CAP Date: 01/01/2009

Action Taken: As per our audit on December 10, 2008, factory had recorded all work hours and paid for them legally.

Plan
Complete:

Plan
Complete
Date:

Forced Labor: Other - Forced Labor

Other

Noncompliance

Explanation: Facility does not have a written policy on prohibition of forced labor.

Sources: documentation review, management interview

Plan Of Action: The prohibition of forced labor should be added as a new individual chapter in the employee handbook and communicated to the workers.

Deadline Date: 02/01/2009

Supplier CAP: It is committed by factory management that the prohibition of forced labor will be added as a new individual chapter in the employee handbook.

Supplier CAP Date: 02/01/2009

Action Taken: As per our audit on December 10, 2008, the prohibition of forced labor had been added as a new individual chapter in the employee handbook.

Plan
Complete:

Plan
Complete
Date:

Freedom of Association: Right to Freely Associate

FOA.2 Workers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organization concerned, to join organizations of their own choosing without previous authorization. The right to freedom of association begins at the time that a worker seeks employment, and continues through the course of employment, including eventual termination of employment, and is applicable as well to unemployed and retired workers. (S)

Noncompliance

Explanation: **FLA Comment:** The Chinese constitution guarantees Freedom of Association; however, the Trade Union Act prevents the establishment of trade unions independent of the sole official trade union - the All China Federation of Trade Unions (ACFTU). According to the ILO, many provisions of the Trade Union Act are contrary to the fundamental principles of freedom of association, including the non-recognition of the right to strike. As a consequence, all factories in China fall short of the ILO standards on the right to organize and bargain collectively. Recently, however, the government has introduced new regulations that could improve the functioning of the labor relations mechanisms. The Amended Trade Union Act of October 2001 does stipulate that union committees have to be democratically elected at members' assemblies and trade unions must be accountable to their members. The trade union has the responsibility to consult with management on key issues of importance to their members and to sign collective agreements. It also grants the trade union an enhanced role in dispute resolution. In December 2003, the Collective Contracts Decree introduced the obligation for representative trade unions and employers to negotiate collective agreements, in contrast to the previous system of non-negotiated administrative agreements.

Although workers have knowledge of the existing union and have the right to either join the union or not, workers have no right to freely associate an independent union, which is prohibited by Chinese Law. A trade union was established in 2002 in this factory. In 2006, [Employee name] was designated as the union leader by the factory management.

Sources: worker and management interviews

Legal Reference: Article 7 of PRC Labor Legal Reference: Laborers have the right to participate in and organize trade unions. Unions represent and safeguard the legal interests of workers and proceed with activities independently.

Plan Of Action:

Factory should be sure all workers have the right to freely associate:

1. Policy on freedom of association should be added to the employee handbook.
2. Workers are to be trained on the policy and they would have the right to freely associate.

Deadline 02/01/2009
Date:

Supplier The policy on freedom of association will be added in the employee handbook and
CAP: emphasize that all workers have the right to freely associate.

Supplier CAP 02/01/2009
Date:

Action 1. The policy of freedom of association had been added to the employee handbook.
Taken: 2. Workers are trained on the policy and emphasized they would have the right to freely associate.

Plan
Complete:

Plan
Complete
Date:

Freedom of Association: Employer Interference/Constitution, Elections, Administration, Activities and Programs

FOA.5 Employers shall not interfere with the right of workers to draw up their constitutions and rules, to elect their representatives in full freedom, to organize their administration and activities and to formulate their programs. (S)

Noncompliance

Explanation: The union leader is not elected by workers, but designated by factory management.

Sources: documentation review, management interview

Plan Of Action: Factory requires that on-site trade union leader, as well as worker representatives, should be selected by workers themselves.

Deadline Date: 03/31/2009

Supplier CAP: Factory will set up a fair selecting procedure and selecting the union leader as well as worker representatives again.

Supplier CAP Date: 03/31/2009

Action Taken: As per document review, currently all worker representatives are selected by workers themselves.

Plan Complete:

Plan Complete Date:

Freedom of Association: Other - Freedom of Association and Collective Bargaining

Other

Noncompliance

Explanation: Factory does not establish policy on freedom of association.

Sources: documentation review, management interview

Plan Of Action: Policy on freedom of association should be added to be an individual chapter in the employee handbook.

Deadline Date: 02/01/2009

Supplier CAP: Policy on freedom of association will be added in the employee handbook.

Supplier CAP Date: 02/01/2009

Action Taken: As per document review on January 13, 2009, the policy on freedom of association has been added to the employee handbook.

Plan Complete:

Plan Complete Date:

Harassment or Abuse: Discipline/Training of Management

H&A.7 Employers shall ensure managers and supervisors are fully familiar with the factory disciplinary system and trained in applying appropriate disciplinary practices. (P)

Noncompliance

Explanation: Factory fails to provide training to managers and supervisors on applying appropriate disciplinary practices.

Sources: documentation review, management interview

Plan Of Action: Employees of all levels should be trained on disciplinary system.

Deadline Date: 02/28/2009

Supplier CAP: Factory will provide training for all managers and supervisors.

Supplier CAP Date: 02/28/2009

Action Taken: As per document review on December 10, 2008, all front line workers are trained on disciplinary system.

Plan Complete:

Plan Complete Date:

Health and Safety: Notification and Record Maintenance

H&S.7 Employers shall notify the relevant authorities of all illnesses and accidents as required by applicable laws. All illness, safety and accident reports shall be maintained on site for at least one year, or longer if required by law. (P)

Noncompliance

Explanation: 3 accidents occurred this year. 2 cases were not investigated for the root cause and 2 cases were not given preventative measures to avoid future any occurrence. 1 case was not available for auditor's review. (Management expressed that this injury record was sent to labor bureau for identification and compensation).

Sources: documentation review, management interview

Legal Reference: Article 57 of PRC Labor Law (Chapter 6, Labor Health and Safety): The employer shall maintain statistical reports on accidents, injuries and/or deaths that occurred to workers during labor or situations related to occupational diseases.

Plan Of Action: 1. Factory is required to complete operation management of on-site H&S Committee; they are responsible for conducting regular safe inspection for production area and other facilities.

2. Factory is required to educate workers on their H&S knowledge.

3. All accidents should be investigated properly and given preventative measures. All information should be also kept on file.

Deadline Date: 02/01/2009

Supplier CAP: Factory has committed to setting up an effective accidents investigation system to record, investigate, analyze, and report, as well as to take correct actions for all accidents.

Supplier CAP Date: 02/01/2009

Action Taken: As document review on December 10, 2008, the accident investigation policy was set up and factory is implementing accordingly.

Plan Complete:

**Plan
Complete
Date:**

Health and Safety: Permits and Certificates

H&S.8 The employer shall at all times be in possession of all legally required and valid permits and certificates related to health and safety issues, such as those related to the purchase and storage of chemicals, fire safety inspections, inspection of machinery, and (chemical) waste disposal. (P)

Noncompliance

Explanation: There is no noise level test conducted by local official department.

Sources: documentation review, management interview

Plan Of Action:

1. Factory is required to complete operation management of the on-site H&S Committee. They are responsible for conducting regular safety inspections for the production area and other facilities; conducting risk assessments in the work place and ensuring high risks are controlled properly; and holding regular committee meetings on H&S issues with discussion, corrective action implementation or follow up, correction announcements and file keeping.
2. Factory is required to educate workers on H&S knowledge.
3. Testing of work place noise levels should be conducted by local CDC or other qualified agency.

Deadline Date: 03/31/2009

Supplier CAP: Factory will follow up on the testing of noise level; will keep the test result on file.

Supplier CAP Date: 03/31/2009

Action Taken: Factory had contacted CDC, but they did not visit the factory.

Plan
Complete:

Plan
Complete
Date:

Health and Safety: Personal Protective Equipment

H&S.11 Workers shall be provided with effective and all necessary personal protective equipment (such as gloves, eye protection, hearing protection, respiratory protection, etc.) to prevent unsafe exposure (such as inhalation or contact with solvent vapors, noise, dust, etc.) to health and safety hazards, including medical waste. (S)

Noncompliance

Explanation: Workers are not equipped with masks when dealing with chemicals.

Sources: factory tour, management interview

Legal Reference: Article 37 of PRC Work Safety Law: Production and business units shall provide their employees with personal protective equipment (PPE) that is up to national standards or industrial specifications; give instructions to their employees; and see to it that they wear or use PPE in accordance with the rules for their use.

Plan Of Action:	<p>1. Factory is required to complete operation management of the on-site H&S Committee; they are responsible for conducting regular safety inspections for production area and other facilities.</p> <p>2. Carbon masks should be provided to all chemical handling workers.</p> <p>3. Training of PPE instructions would be conducted regularly for all workers.</p>
Deadline Date:	02/01/2009
Supplier CAP:	<p>1. Factory committed to provide proper carbon masks for all chemical handling workers.</p> <p>2. Training on PPE instruction would be conducted regularly for all workers.</p>

Supplier CAP 02/01/2009

Date:

Action Taken: As per document review January 13, 2009, all corrective actions mentioned above have been completed.

Plan Complete:

Plan Complete Date:

Health and Safety: Medical Facilities

H&S.21 Medical facilities shall be established and maintained in factories as required by applicable laws. Medical staff shall be fully licensed and recognized under applicable local rules and regulations. An appropriate number of medical staff shall be on duty during all working hours, including any type of overtime, as required under local law. An appropriate stock of medical supplies shall be maintained at all times. Medicines of which the expiration date has passed must be replaced immediately and disposed of in a safe manner. (P)

Noncompliance

Explanation: 1. Factory does not have a clinic to provide medical care for workers inside factory.
2. Factory has no doctor or medical staff employed inside factory.

Sources: factory tour, management interview

Plan Of Action: The internal clinic should be set up and qualified doctor should be trained.

Deadline Date: 12/31/2009

Supplier CAP: As committed by factory management, a clinic with a qualified doctor will be set up.

Supplier CAP 12/31/2009

Date:

Action Taken: As per document review and site inspection on December 10, 2008, first aid kit with the necessary supplies are provided for work place and a total of 65 workers had attended first aid training by local Red Cross.

Plan Complete:

Plan Complete Date:

Hours of Work: Rest Day

HOW.2 Workers shall be entitled to at least one day off in every seven-day period. If workers must work on a rest day, an alternative day off must be provided within that same seven-day period or immediately following the seven-day period. (P)

Noncompliance

Explanation: All the workers were given at least 1 day off in every 7 day period in February and from May – November. However, as 1 Sunday work instance was found in raw material warehouse picking records, it cannot be verified that workers are given at least 1 day off in every 7 day period in October. Since inconsistencies were found between time records, worker interviews and raw material warehouse picking records, it cannot be verified if workers are given at least 1 day off in every 7 period except for October.

Sources: documentation review, factory tour, time record review

Legal References: Article 38 of PRC Labor Law: Employer shall guarantee that its laborers have at least 1 day off per week. Reply to Questions on Working Hours, Article 9: a) The employer shall negotiate with union and employees on how to implement the system of comprehensive calculated working hours; b) taking manual work regulated as the third level or higher level, laborers shall not work more than 11 hours a day consecutively, and at least have a day off a week.

Plan Of Action:

1. Factory is required to set up an automatic electric time card system to record all work.
2. All work hours should be recorded properly and workers paid accordingly.
3. To ensure transparency of all time records, cross checking between production records, worker interviews and the electronic time record system will be conducted during our audit or visit.

Deadline Date: 01/01/2009

Supplier CAP: Factory has committed to recording all work hours and paying for them legally.

Supplier CAP Date: 01/01/2009

Action Taken: As per document review and interview on December 10, 2008, factory has an automatic electric time card system to record all work hours.

Plan Complete:

Plan Complete Date:

Hours of Work: Overtime/Calculation Over Period Longer Than One Week

HOW.10. Employers are allowed to calculate normal hours of work as an average over a period of longer than one week where local laws, regulations and procedures provide for such a possibility but only when all formal and procedural requirements attached to such calculation (for instance, obtaining official permission from the relevant authorities or limits to the period during which such calculations can be made) are met. The basis for such calculation shall, however, remain at all times the lesser of 48 hours per week or legal limits on hours of work in the country of manufacture or, where such legal limits do not exist, the regular work week in such country. (S)

Noncompliance

Explanation: 1. 1 of 25 workers in the logistics department worked 62.5 hours weekly in October. All other workers worked within 60 hours per week.

2. In September, workers from MS silk screen printing worked 40 OT hours; workers from THB department worked 58 OT hours; workers from QC department worked 46 OT hours; workers from logistics department worked 60 OT hours. In October, workers from QC department worked 38 OT hours; workers from THB department worked 51 OT hours; workers from silk screen printing department worked 42 OT hours; workers from warehouse department worked 39 OT hours; workers from logistics department worked 57.5 OT hours. In November, workers from logistics department worked 59.5 OT hours; workers from HS mechanic department worked 40 OT hours; workers from QC department worked 44 hours OT; workers from THB department worked 60 OT hours.

Sources: documentation review, factory tour, worker interviews, time record review

Legal References: Reply to Questions on Working Hours, Article 5: Providing that the system of comprehensively calculated working hours is executed, in the period of comprehensively calculated work hours, actual work hours could exceed 8 hours (or 40 hours) on a specific day (or week). But, actual total work hours shall be no more than the total normal work hours regulated by law. The excess part shall be regarded as OT and paid according to Article 44.1 of PRC Labor Law. If employee is asked to work on legal holidays, OT payment should be paid as regulated by Article 44.3 of PRC Labor Law. Besides, the average hours of OT each month shall be no more than 36 hours. Article 41 of PRC Labor Law (Chapter 4 Working Hours, Rest Days and Holidays): Employees should not be allowed to work more than 3 OT hours per day and 36 OT hours per month.

Plan Of Action: 1. Factory should strictly follow the work hours policy of government.
2. Combined with brand requirements, factory should control workers' weekly work hours to within 60 hours.

Deadline Date: 01/01/2009

Supplier CAP: 1. Factory will follow the work hours policy of government.
2. Factory will control workers' weekly hours to 60 hours.

Supplier CAP Date: 01/01/2009

Action Taken: As per document review in December 10, 2008 audit:
1. The comprehensive work hours permission system is in place.
2. To avoid excessive OT, factory has set an alarm for the electric time card system from November 2008; the system will automatically submit those workers who have worked no more than 52 hours on Friday afternoon, and then HR department will ask supervisors to control their work hours on Saturday.

Plan Complete:

Plan Complete Date:
